

ORIGINAL



0000124716

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

Arizona Corporation Commission

DOCKETED

2011 APR 20 P 1:20

APR 20 2011

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY

COMMISSIONERS

GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

IN THE MATTER OF THE APPLICATION
OF WICKENBURG RANCH
WASTEWATER, LLC FOR A CERTIFICATE
OF CONVENIENCE AND NECESSITY TO
PROVIDE WASTEWATER SERVICE IN
YAVAPAI COUNTY.

DOCKET NO. SW-20769A-10-0469

PROCEDURAL ORDER

BY THE COMMISSION:

On November 16, 2010, Wickenburg Ranch Wastewater, LLC ("WRWW") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("CC&N") to provide wastewater utility service to customers in Yavapai County, Arizona, in an area approximately 5 miles north of the Town of Wickenburg ("Town") and directly adjacent to State Route 89 and U.S. Highway 93. Specifically, WRWW seeks to serve an area projected to include a proposed 2,162-acre master-planned community, known as Wickenburg Ranch, and a one-acre parcel dedicated to Arizona Public Service Company ("APS") for construction of a substation (collectively "the proposed service area"). The land in the proposed service area, other than the APS parcel, is owned by Vanwick, LLC; Van Development Co., Inc.; 5860 Development Inc.; and JVT Investors, LLC (jointly the "Van Tuyl entities"¹). The Van Tuyl entities are the developers for Wickenburg Ranch, which is to consist of 1,724 single-family home lots, 600 multi-family units, and commercial units. The Van Tuyl entities desire wastewater service for

¹ Official notice is taken of Commission Corporations Division records showing the following: Vanwick, LLC has only one member, Larry Van Tuyl, and has as its manager VTWick, Inc., which lists Larry Van Tuyl, trustee, as its only shareholder. Van Development, Inc., a Kansas for-profit corporation, had its authorization to conduct business in Arizona revoked in September 2000 for failure to file an annual report and listed V.T., Inc. as its only shareholder in its last annual report filed in Arizona. V.T., Inc. has only one listed shareholder, Cecil Van Tuyl. 5860 Development Inc. is owned by 7575 Development Inc., which lists Larry Van Tuyl, trustee, as its only shareholder. JVT Investors, LLC lists as its only members the Van Tuyl Family Irrevocable Trust, for the benefit of three different individuals (Jessica L. Van Tuyl, Tricia Ann Van Tuyl, and Vanessa Noel Van Tuyl), with Cecil L. Van Tuyl as trustee, and has as its manager 7575 Development Inc. (See <http://starpas.azcc.gov>.) In addition, Commission Corporations Division records show that either Larry Van Tuyl or Cecil Van Tuyl has a leadership role (President/CEO, Director) in each of these entities. (See *id.*)

1 Wickenburg Ranch to be provided by WRWW, which is affiliated with the Van Tuyl entities.² With
2 the application, WRWW included, *inter alia*, a November 15, 2010, letter notifying APS of the
3 application; a draft notice letter to be sent to the Town; a copy of the Construction Authorization for
4 Sewage Collection Facilities issued by Yavapai County on June 27, 2008; and a copy of the Arizona
5 Department of Water Resources ("ADWR") Designation of Adequate Water Supply issued to CDC
6 Wickenburg Water, LLC³ for Wickenburg Ranch on February 11, 2008.

7 On November 23, 2010, WRWW filed a copy of the notice letter sent to the Town on
8 November 18, 2010.

9 On December 17, 2010, the Commission's Utilities Division ("Staff") issued an Insufficiency
10 Letter stating that the application had not met the sufficiency requirements outlined in Arizona
11 Administrative Code ("A.A.C.") R14-2-602(D) and requesting additional information.

12 On December 22, 2010, WRWW filed a Notice of Errata correcting two errors in the legal
13 description set forth in the application.

14 On February 9, 2011, WRWW filed a Response to Staff's Letter of Insufficiency, including
15 data responses with a number of attachments.

16 On March 10, 2011, Staff issued a Sufficiency Letter stating that the application had met the
17 sufficiency requirements outlined in the A.A.C.

18 On March 15, 2011, a Procedural Order was issued scheduling the hearing in this matter for
19 May 6, 2011, and establishing other procedural requirements and deadlines.

20 On March 30, 2011, WRWW filed certification of mailing of public notice of hearing, stating
21 that notice had been mailed to the Town and to each landowner within the proposed service area.

22 On April 15, 2011, WRWW filed certification of publication of public notice of hearing,
23 showing that notice had been published in *The Daily Courier*, a daily newspaper published in the City
24 of Prescott, on March 31, 2011.

25 On April 15, 2011, Staff filed a Request for Extension of Time Regarding Staff Report,
26 stating that Staff needed additional time in which to file the Staff Report in this matter, which was

27 ² WRWW is owned by Vanwick, LLC.

28 ³ CDC Wickenburg Water, LLC is now known as Wickenburg Ranch Water, LLC. (Decision No. 70741 (February 12, 2009).)

1 due on April 15, 2011, because of Staff's current workload, and requesting that Staff's filing deadline
2 be extended to April 25, 2011. Staff did not make any assertions concerning any communications
3 with WRWW regarding the requested extension.

4 On April 19, 2011, WRWW filed a Response to Staff's Request for Extension of Time
5 Regarding Staff Report, stating that WRWW does not object to Staff's requested extension, provided
6 that WRWW's deadline to respond to the Staff Report is extended from April 29, 2011, to May 3,
7 2011.

8 Because WRWW does not object to Staff's requested extension, provided that WRWW also
9 receives a slight extension of its responsive filing deadline, it is reasonable and appropriate to grant
10 Staff's requested extension and WRWW's resulting requested extension.

11 IT IS THEREFORE ORDERED that Staff shall file its **Staff Report** and associated exhibits
12 to be presented at the hearing on or before **April 25, 2011**.

13 IT IS FURTHER ORDERED that any **objection or response to the Staff Report** from
14 WRWW or any intervenor shall be made in writing and filed on or before **May 3, 2011**.

15 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
16 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

17 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
18 Communications) applies to this proceeding and shall remain in effect until the Commission's
19 Decision in this matter is final and non-appealable.

20 IT IS FURTHER ORDERED that any motion filed in this matter, other than a motion to
21 intervene, that is not ruled upon by the Commission within 20 calendar days of the filing date of the
22 motion shall be deemed denied.


23 IT IS FURTHER ORDERED that any response to a motion, other than a motion to intervene,
24 shall be filed within five calendar days of the filing date of the motion.

25 IT IS FURTHER ORDERED that any reply related to a motion shall be filed within five
26 calendar days of the filing date of the response to the motion.

27 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
28 pursuant to Civil Procedure Rule 6(a) or (e).

1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
2 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
3 hearing.

4 DATED this 20th day of April, 2011.


5
6 
7 SARAH N. HARPRING
8 ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered
10 this 20th day of April, 2011, to:

11 Steve Wene
12 MOYES SELLERS LTD
13 1850 North Central Avenue, Suite 1100
14 Phoenix, AZ 85004
15 Attorney for Wickenburg Ranch Wastewater, LLC

16 Janice Alward, Chief Counsel
17 Legal Division
18 ARIZONA CORPORATION COMMISSION
19 1200 West Washington Street
20 Phoenix, AZ 85007

21 Steven M. Olea, Director
22 Utilities Division
23 ARIZONA CORPORATION COMMISSION
24 1200 West Washington Street
25 Phoenix, AZ 85007

26 By: 
27 Debra Broyles
28 Secretary to Sarah N. Harpring